



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 4, 2004

Larman Anderson
PO Box 52
Moore, ID 83255

Re: Mitigation Plan for 2004 Irrigation Season

Dear Mr. Anderson,

The Idaho Department of Water Resources ("Department") is in receipt of your letter dated July 21, 2004 that proposes a mitigation plan in response to the Department's Order in the Matter of Distribution of Water Rights 34-372A, 34-372B, and 34-690B, Dated July 12, 2004, and amended on July 23, 2004. The Department received your letter on July 27, 2004.

Your proposed mitigation plan essentially involves two strategies:

- 1) Reduction in use of ground water, and
- 2), Donation of your storage water to connect the Big Lost River earlier in the season to the Moore Diversion.

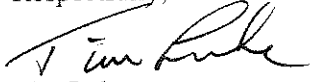
The Department empathizes with the loss of water and crops that you have suffered as a result of not receiving full delivery of your 1883 surface water rights at the Moore Diversion over the past few years. However, as you are also the holder of a junior ground water right and using groundwater this year, the Department maintains that you and all junior ground water users have a mitigation obligation in 2004. The Department has determined that reduction in use of ground water is not an acceptable mitigation plan. The purpose of mitigation is to provide replacement water or other compensation to senior surface water right holders in order to be allowed to continue to divert junior ground water rights out-of-priority. Any diversion of ground water from your well is out-of-priority with respect to senior surface water rights, regardless of whether or not you are diverting less ground water than normal or whether you own 1883 priority surface water rights.

The Department understands that you and other users with surface water rights in the lower valley donated a portion of your own storage water earlier in the season in order to charge the river and connect the river to the Moore Diversion. Those users with surface water rights at the Moore Diversion who donated a portion of their own storage for this purpose benefited directly from this action since this aided in the delivery of their own senior surface water rights. Donation of storage water from senior surface water right holders at the Moore Diversion therefore does not qualify as an acceptable mitigation plan.

The Department has accepted a mitigation plan from a group of water users in Water District 34 that provides direct mitigation, in the form of replacement water, to the senior surface water right holders that have made the delivery call. Under this plan, you are only required to pay or mitigate for the amount of ground water that you divert in 2004, which we believe may be less than \$20 per user on average. You may wish to consider joining this group, or work with another group of users in presenting some form of acceptable mitigation. The Department is allowing several additional days for the group represented by the Rigby law firm to propose some acceptable alternative mitigation. The Department intends to proceed with curtailment of ground water diversions that are not represented by an acceptable plan.

Please contact me directly at the above office if you have further questions regarding this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Tim Luke". The signature is fluid and cursive, with the first name "Tim" and last name "Luke" clearly distinguishable.

Tim Luke
Manager, Water Distribution Section

Cc: Gary Spackman, IDWR
Bob Duke, Water District 34 Watermaster

KAKL
RECEIVED

JUL 27 2004

DEPARTMENT OF
WATER RESOURCES

July 21, 2004

Farman R. Andersen

Rt 1 Box 52

Moore, Wyo 83755

RE: Mitigation of Groundwater:

Dear Director Decher:

The following is my mitigation for 2004 irrigation season. I have a 1823 water right w/ priority of 3-10-23 5-20-24 and some 1891 right, and storage in Mackay Dam. I donated my storage water to the District and state so they could connect the river to the Moore Diversion. This was so the B.R.I.D. and state could deliver our decreed water.

Because I knew that this would be a short year. Normally I farm 150 acres, this year I am only farming 36 acres of the 150 acres.

The Supplemental well I own 1/2 But in is only pumping about 70 inches at present. It is Licensed to pump 352 inches. I use this sup well when the B.R.I.D. ~~and~~ State can't furnish my daily volume. I have a 150 acre pasture just South of Area 2d which has a spring right that hasn't been on for 4 yrs. I have had to sell my registered herd of Angus cattle because of this situation. The water right has a priority Senior to all ground water in the lower basin.

In closing I feel you must be made aware that the Jensen's are wasting water and have been all season as they are water hogs pits and road ways.

Thank you for considering all the facts.

Farman R. Andersen

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